IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

WA.No. 588 of 2004

AGAINST THE JUDGEMENT/ORDER IN OP.3846/1994 Dated 24/02/2003

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APPELLANT: PETITIONER

K.DEVADASAN, FORMER P.D.TEACHER,
GOVT.L.P.SCHOOL MAMANKARA, NILAMBOOR,
MALAPPURAM DISTRICT.

BY ADV. SRI.P.V.SURENDRANATH
SMT.BINDUMOL JOSEPH

RESPONDENTS: RESPONDENTS

1. THE HEAD MASTER, GOVT.L.P.SCHOOL,
MAMANKARA, NILAMBOOR.

2. ASSISTANT EDUCATIONAL OFFICER,
NILAMBUR.

3. DEPUTY DIRECTOR OF EDUCATION,
MALAPPURAM.

4. DIRECTOR OF PUBLIC INSTRUCTIONS,
THIRUVANANTHAPURAM.

5. STATE OF KERALA, REPRESENTED BY ITS
SECRETARY, DEPARTMENT OF EDUCATION,
SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.K.SUDER RAJ

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 10/09/2007, THE COURT ON 10/09/2007 DELIVERED THE FOLLOWING:

K.S.RADHAKRISHNAN & A.K.BASHEER, JJ.

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W.A.No.588 OF 2004

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Dated this the 10th day of September, 2007

JUDGMENT

Radhakrishnan, J

This writ appeal is preferred by the appellant herein seeking a writ of certiorari to quash Exts.P6, P8 and P10 orders by which the appellant was denied full pay and allowances for the period of suspension; to issue a writ of mandamus declaring that petitioner is entitled for full pay and allowance for the period under suspension; for a direction declaring that the authorities are not entitled to recover any amount paid to the petitioner during the suspended period; also for a writ of certiorari to quash the note 3 to Rule 56 B of Part I K.S.R. as it is unconstitutional and violative of Article 21 of the Constitution of India.

2. Learned Single Judge interdicted the department to recover the subsistence allowance given to the appellant by judgment dated 24.2.2003. But the court was not pleased to regularize the suspension period by allowing full pay and

allowances on the basis of the acquittal in the criminal case. Aggrieved by the same appellant has filed this writ appeal.

3. While working as P.D. Teacher in Govt. U.P. School, Konnamanna, Nilamboor Educational Sub District, Malappuram district, appellant/petitioner was implicated in a criminal case. Criminal case was charged against him under Section 354 IPC. The case was tried before Judicial Magistrate of II Class, Nilambur as C.C.No.374/87. Appellant/petitioner was acquitted of the criminal case since the prosecution had failed to prove the case. Departmental proceedings initiated against him was thereupon revoked and he was reinstated in service on 16.2.90. Further, in the process of regularisation of the period of suspension, a show cause notice was issued to him and the proposal was to treat it as eligible leave. This was objected to, but the period was treated as eligible leave as per the order of the Deputy Director of Education, Malappuram dated, 16.2.90. Aggrieved by the said order, petitioner filed an appeal before the Director of Public Instruction. The appeal was dismissed

holding that the case was not an honorable acquittal and consequently it was held that petitioner is entitled to claim salary during the period of suspension. The order was confirmed by the Government vide order dated 2.7.91.

Taking into consideration of all aspects of the matter, we are of the view that the learned Single Judge has rightly considered the issue. We find no reason to interfere with the order passed by the learned Single Judge. This writ appeal lacks merit and it is therefore dismissed.

K.S.RADHAKRISHNAN, JUDGE

A.K.BASHEER, JUDGE

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